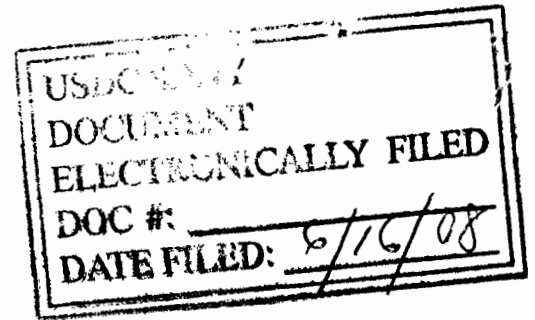


**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**



PHILLIP JEROME GARDNER,

Plaintiff,

- against -

**CORRECTIONS OFFICER DADDEZIO
and SGT. HALLER,**

Defendants.

ORDER

07 Civ. 7201 (SAS)

SHIRA A. SCHEINDLIN, U.S.D.J.:

On August 13, 2007, Phillip Jerome Gardner filed the above-captioned action and was granted permission to proceed *in forma pauperis*. On September 17, 2007, the Court denied Gardner's motion to appoint counsel (the "September 17 Order"). The Court later denied Gardner's motion for reconsideration of the September 17 Order.¹ Subsequent to these denials, Gardner continued to file applications for the appointment of counsel, most recently on June 10, 2008.² The Court will treat the applications as motions for

¹ See 11/5/07 Order Denying Motion for Reconsideration.

² Local Rule 6.3 requires that a motion for reconsideration "shall be served within ten (10) days after the entry of the court's determination of the original motion." Because Gardner is a pro se plaintiff, the Court waives this requirement.

reconsideration of the September 17 Order.

“The standard for granting such a motion is strict, and reconsideration will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked – matters, in other words, that might reasonably be expected to alter the conclusion reached by the court.”³ Reconsideration is an “extraordinary remedy to be employed sparingly in the interests of finality and conservation of scarce judicial resources.”⁴ A motion for reconsideration is not a substitute for appeal.⁵ Nor is it “a ‘second bite at the apple’ for a party dissatisfied with a court’s ruling.”⁶

Gardner has not presented any new information or argument that warrants this Court revisiting its earlier decision. Therefore, Gardner’s motion for

³ *Shrader v. CSX Transp., Inc.*, 70 F.3d 255, 257 (2d Cir. 1995). *Accord In re BDC 56 LLC*, 330 F.3d 111, 123 (2d Cir. 2003); *Eisemann v. Greene*, 204 F.3d 393, 395 n.2 (2d Cir. 2000) (“To be entitled to reargument, a party must demonstrate that the Court overlooked controlling decisions or factual matters that were put before it on the underlying motion.” (quotation marks omitted)).

⁴ *In re Health Mgmt. Sys., Inc. Sec. Litig.*, 113 F. Supp. 2d 613, 614 (S.D.N.Y. 2000) (quotation marks omitted).

⁵ *See RMED Int’l v. Sloan’s Supermarkets, Inc.*, 207 F. Supp. 2d 292, 296 (S.D.N.Y. 2002).

⁶ *Pannonia Farms, Inc. v. USA Cable*, No. 03 Civ. 7481, 2004 WL 1794504, at *2 (S.D.N.Y. Aug. 10, 2004). *Accord Shrader*, 70 F.3d at 257 (stating that a court should deny a motion for reconsideration when the movant “seeks solely to relitigate an issue already decided”).

reconsideration is denied. The Court, however, may review Gardner's application once again following the decision on defendants' motion for summary judgment.

SO ORDERED:



Shira A. Scheindlin
U.S.D.J.

Dated: New York, New York
June 16, 2008

- Appearances -

Plaintiff (Pro Se):

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(# 00-A-1955)
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